

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Maritime Communications/Land Mobile, LLC)	EB Docket No. 11-71
)	
Application to Assign Licenses)	FCC File No. 0005552500, WT Docket
to Choctaw Holdings, LLC)	No. 13-85

To: The Commission

**OPPOSITION OF CHOCTAW TELECOMMUNICATIONS LLC
AND CHOCTAW HOLDINGS, LLC TO REQUEST FOR STAY**

Choctaw Telecommunications, LLC and Choctaw Holdings, LLC (“collectively Choctaw”) hereby jointly oppose the Request for Stay and Request for Arbitration filed by Warren Havens and Polaris PNT PBC (“Havens”) on July 27, 2017 (the “Havens Request”). The Havens Request is procedurally improper and is merely the most recent example of Havens’ meritless pleadings filed with the Commission. For the reasons set forth below, the Commission should promptly dismiss or deny the Havens Request.

I. THE HAVENS REQUEST IS PROCEDURALLY IMPROPER BECAUSE HAVENS FAILS TO SHOW GOOD CAUSE.

Havens seeks a stay of all FCC proceedings involving Maritime Communications/Land Mobile, LLC (“MCLM”) licenses, including the Commission’s *Order on Reconsideration and Memorandum Opinion and Order*¹ that granted “*Second Thursday*” relief to MCLM and Choctaw. As the Commission has stated, a stay can only be issued where there is good cause.²

¹ *Maritime Communications/Land Mobile, LLC, Debtor-In-Possession Application To Assign Licenses To Choctaw Holdings, LLC*, Order on Reconsideration and Memorandum Opinion and Order, 31 FCC Rcd 13729 (2016) (“*Second Thursday* Order”).

² *Applications filed by Satellite Broadcasting Company, Inc. for stations in the Private Operational-Fixed Microwave Service; Applications for Review Emergency Motion for Partial Stay*, Memorandum Opinion and Order, FCC 86-168, at ¶ 9 (rel. Apr. 16, 1986).

Good cause is shown when the petitioner meets the four factors enumerated in *Virginia Petroleum Jobbers Association v. FPC*: (1) Has the petitioner made a strong showing that it is likely to prevail on the merits of its appeal? (2) Has the petitioner shown that without such relief, it will be irreparably injured? (3) Would the issuance of a stay substantially harm other parties interested in the proceedings? (4) Would grant of a stay serve the public interest?³ As explained below, Havens does not meet any of the above four factors.

A. The Havens Request Fails On The Merits.

Havens cannot prevail on the merits because he lacks standing. The Commission has repeatedly found that Havens asserts non-injuries before the Commission and fails to show competitive harm.⁴ The instant stay request suffers from the same defects.

B. Havens Fails to Show That He Will Be Irreparably Injured.

Havens has made no showing that he will be irreparably injured.⁵ His lack of irreparable injury is evidenced by his extended delay in filing the Havens Request. If Havens was truthfully suffering harm, he would have requested a stay when he first filed his Petition for Reconsideration, seven months ago, before the *Second Thursday* Order became effective and the transfer was consummated by the parties.

C. The Issuance of a Stay Harms Innocent Creditors and Choctaw.

The Commission has repeatedly stated that the purpose of a stay is to “preserve the status

³ *Id.* (citing 259 F.2d 921, 925 (D.C. Cir. 1958)). As noted by the D.C. Circuit in *Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977), “when the second, third and fourth factors strongly favor interim relief, a tribunal ‘may exercise its discretion to grant a stay if the movant has made a substantial case on the merits.’”

⁴ See, e.g., *In The Matter Of Maritime Communications/Land Mobile, LLC, Debtor-In-Possession; Applications To Renew The Licenses For AMTS Stations WQGF315, WQGF316, WQGF317, WQGF318; Request For Extension And/Or Waiver Of AMTS Geographic License Performance Deadline; Application To Assign Licenses To Choctaw Holdings, LLC*, Order, 32 FCC Rcd 3907, 3910-12, ¶¶ 8-11 (2017).

⁵ *Id.*

quo.”⁶ Following the effectiveness of the *Second Thursday* Order, the licenses at issue were transferred from MCLM to Choctaw, and the deal between the two parties was consummated. A stay does not turn back time. Thus, the “status quo” to be preserved at this time is Choctaw (not MCLM) as the licensee. Changing the status quo would require unwinding this transaction and would harm Choctaw.

Moreover, the issuance of a stay would substantially harm other parties given that the *Second Thursday* Order was adopted to help MCLM’s innocent creditors (including Choctaw).⁷ As the FCC recognized, none of the creditors that benefited from the assignment of the licenses were accused of any wrongdoing.⁸ A stay would delay efforts to repay these creditors pursuant to a Reorganization Plan approved by the United States Bankruptcy Court for the Northern District of Mississippi.⁹

D. The Havens Request Conflicts With the Public Interest.

The Commission has correctly concluded that the *Second Thursday* Order serves the public interest because it “removes a cloud on valuable spectrum so it can be quickly put to use.”¹⁰ Grant of a stay would further delay the ability to put this spectrum to use and therefore is inconsistent with the public interest. The Havens Request presents no evidence to counter this conclusion.

The public interest is served by accommodating the federal bankruptcy laws and

⁶ See, e.g., *Alabama Cable Telecommunications Association, Comcast Cablevision of Dothan Inc., et al. Complainant, v. Alabama Power Company, Respondent/Applicant; Application for Review*, Order, 16 FCC Rcd 12209, 12214, ¶ 12 (2001).

⁷ See *Second Thursday* Order at 13736, ¶ 15 (“the creditors of MCLM who would benefit from the proceeds obtained from assignment of the licenses are innocent creditors”).

⁸ *Id.* at 13736-37, ¶ 15.

⁹ *Maritime Communications/Land Mobile, LLC, Debtor*, U.S. Bankruptcy Court Northern District of Mississippi, Case No. 11-13463-dwh.

¹⁰ *Second Thursday* Order at 13740, ¶ 22.

protecting innocent creditors. In fact, the *Second Thursday* doctrine stems from the FCC's responsibility to "serve[] the public interest by accommodating the bankruptcy laws."¹¹

Furthering this goal ultimately requires denying the Havens Request.

Finally, Havens is a vexatious litigant. He previously has been referred to the Commission for filing a motion in "bad faith" and "engag[ing] in patterns of egregious behavior."¹² He has been disruptive in numerous proceedings, and continues to waste the resources of other parties and the agency.

II. CONCLUSION

For the foregoing reasons, the Commission should promptly dismiss or deny the Havens Request.

Respectfully submitted,

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¹¹ *Application of Martin W. Hoffman, Trustee For Renewal of the License of Station WHCT-TV Hartford, Connecticut*, Memorandum Opinion and Order, 12 FCC Rcd 11722, 11723, ¶ 4 (1997).

¹² *Memorandum Opinion and Order*, FCC 15M-14 (rel. Apr. 22, 2015).

CERTIFICATE OF SERVICE

I, Brenda Singley, hereby certify that on this 3rd day of August 2017, copies of the attached Opposition to Stay were served via email and first class mail to the following:

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